

REMARKS

The Office Action mailed February 5, 2003, has been carefully reviewed and considered. Claims 1-33 were pending in the present application, of which claims 1-11, 13, 15-20, 22, 23 and 25-33 were believed by the Examiner to read on the elected species. By way of this amendment and reply, claims 7 and 17 have been amended. No new matter has been introduced. Accordingly, claims 1-33 remain pending for consideration.

In the Office Action, claims 7 and 17 were rejected under 35 U.S.C. § 112, second paragraph as being allegedly indefinite. In view of the amendments to claims 7 and 17, this rejection has been overcome.

Also in the Office Action, claims 1-3, 5-7, 19, 20, 22 and 28-32 were rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by Kafka et al. (U.S. Patent No. 6,236,779). Claims 4, 8, 23, 25-27 and 33 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kafka et al. while claims 9-11, 13 and 15-18 were rejected under the same section over Kafka et al. in view of Simon et al. (U.S. Patent No. 5,995,281). For at least the reasons set forth herein, these rejections have been overcome. The independent claims of the present application recite that the "optical component spectrally spreads the light passing through." (see e.g., claims 1, 28 and 30). Kafka et al. do not disclose an optical component that spectrally spreads the light passing through.

Transporting sub-picosecond duration light pulses through glass material such as a conventional fiber leads to longer pulsewidth because of group velocity dispersion. Kafka et al. use a "Photonic Crystal Fiber" to avoid the pulse broadening effect. According to the reference, they use a special photonic crystal fiber that is designed to have nearly zero dispersion (column 2, lines 9-15). It is not designed to achieve a spectral spreading of light passing through. Indeed Kafka et al. do not even mention the generation of a broad spectrum to illuminate a specimen.

*Dispersion present:
Line 22*

Furthermore, with respect to claims 2, 3, 19 and 20, the structure of the "Photonic Crystal Fiber" used by Kafka et al. is not disclosed in the reference. The reference does not appear to disclose the optical component being photonic band gap material as recited in these claims nor does the Office Action allege that it does. For this additional reason, claims 2, 3, 19 and 20 are patentable over the cited reference.

no evidence
by applicant

Furthermore, Kafka et al. disclose a microscope but not a scanning microscope. In scanning microscopy, especially in confocal scanning microscopy, multi color illumination is much more important than in conventional microscopy. This further supports Applicant's assertion that Kafka et al. deals only with the pulsewidth but not with the spectral broadening recited in the present claims.

scanning
in
col. 3

Furthermore, Applicant disputes the implicit contention in the Office Action that tapered fibers *for the spectral spreading of light* were known in the art. For this further reason, claims 4, 23, 25-27 and 33, which recite this feature of the invention, are patentable over Kafka et al.

In the Office Action, claims 1-11, 13, 15-20, 22, 23 and 25-33 were provisionally rejected for obviousness-type double patenting over the claims of six different co-pending applications (one of which has issued as a U.S. patent). In an effort to more rapidly advance prosecution of the present claims to issuance, Applicant has overcome this rejection by filing a terminal disclaimer concurrently herewith corresponding to the issued patent (U.S. Patent No. 6,567,164) and offers to file similar terminal disclaimers for any of the other co-pending applications cited in the rejection that ultimately issue as patents. Applicant does not, however, make any statement as to the appropriateness of the rejection.

Applicant respectfully submits that the claims are now in condition for allowance and solicits early notification of the same. In view of the allowability of the claims of the elected species, applicant requests rejoinder and allowance of the claims of the non-elected specie. Should there be any questions or concerns regarding the present application, the Examiner is invited to contact Applicant's undersigned representative by telephone.

A petition for a one-month extension of time, along with the appropriate fee, have been submitted concurrently herewith.

Respectfully submitted,

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Date



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Should additional fees be necessary in connection with the filing of this paper, or if a petition for extension of time is required for timely acceptance of same, the Commissioner is hereby authorized to charge Deposit Account No. 19-0741 for any such fees; and applicant(s) hereby petition for any needed extension of time.

VERSION WITH MARKINGS TO SHOW CHANGES MADE

Marked-Up Claims:

7. (Amended) The scanning microscope as defined in Claim 6, wherein the means for attenuating [consists essentially] comprises at least one of a spectrally selective filter, a dichroic filter, an acoustooptical tunable filter (AOTF), acoustooptical deflector (AOD), and an LCD attenuator.

17. (Amended) The confocal scanning microscope as defined in Claim 16, wherein the means for attenuating [consists essentially] comprises at least one of a spectrally selective filter, a dichroic filter, an acoustooptical tunable filter (AOTF), acoustooptical deflector (AOD), and an LCD attenuator.